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Report of the Secretary-General on progress in the implementation of the political agreement of 31 December 2016

1. The present report covers developments in the Democratic Republic of the Congo since 30 June 2017 and is submitted pursuant to resolution 2348 (2017), in which the Security Council requested the Secretary-General to update it in writing every 45 days on political and technical progress and obstacles to the implementation of the Comprehensive and Inclusive Political Agreement signed on 31 December 2016.

I. Key political developments related to the implementation of the agreement

2. Political tensions in the Democratic Republic of the Congo continue to rise, amid continuing challenges towards the full implementation of the political agreement of 31 December 2016, which should guide the country towards the holding of peaceful and credible elections and the conclusion of the political transition period. Against this backdrop, popular dissatisfaction with the political process continues to grow, aggravated by the worsening socioeconomic situation. Moreover, the security situation remains of concern in several areas in the country, in particular in the eastern Democratic Republic of the Congo and the Kasai region, while security incidents have occurred in Kinshasa and in other main urban centres. The Government of the Democratic Republic of the Congo and the signatories of the political agreement have yet to reach consensus on an inclusive way forward for the implementation of the agreement, particularly with respect to establishing conditions conducive to the holding of timely, credible and transparent presidential, national and provincial legislative elections.

3. In a statement on 1 July, my Special Representative for the Democratic Republic of the Congo reminded all signatories of the 31 December agreement of their obligation to fully and faithfully implement the agreement. He stressed that the Independent National Electoral Commission has the primary responsibility for the organization of the elections and called upon the Commission to publish, without further delay, an official and consensual electoral calendar. My Special Representative further recalled the importance of the required confidence-building measures for promoting a meaningful consensus. The President of the Commission, Corneille Nangaa, responded on 4 July, through the media, by asserting that the United Nations Organization Stabilization Mission in the Democratic Republic of

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the Congo (MONUSCO) was not mandated to organize elections, but rather to maintain peace.

4. On 7 July, in Paris, during a high-level meeting on the electoral process in the Democratic Republic of the Congo held at the initiative of the International Organization of la Francophonie (OIF), Corneille Nangaa provided an update on the status of the electoral process, including a suggested set of minimum timelines required for the successful conduct of the process that would make it difficult to comply with the December 2017 deadline.

5. On 13 July, the Minister of Communication and the Media and government spokesperson, Lambert Mende, stated that further assessments of the electoral time frame were the joint prerogative of the National Council for Monitoring the Agreement and the Electoral Process, the Government and the Independent National Electoral Commission, in accordance with the agreement of 31 December 2016. On 20 July, the President of the Union pour la nation congolaise, Vital Kamerhe, made similar remarks, stating that the decision to postpone the holding of elections beyond December 2017 could only be taken jointly by the Commission, the Council and the Government, and urged the Commission to publish a detailed electoral calendar. The opposition Rassemblement des forces politiques et sociales de la République démocratique du Congo acquises au changement platform and its member parties made several statements denouncing the remarks made by the President of the Commission, describing it as "a declaration of war against the Congolese people" and calling for "acts of resistance" starting on 22 July. The "acts of resistance" did not, however, materialize.

6. President Joseph Kabila delegated to the Presidents of the two Chambers of Parliament his prerogative to convene the designated members of the National Council for Monitoring the Agreement and the Electoral Process to validate their credentials, discuss the consensual designation of the Council's President and establish the bureau of the oversight mechanism. On 3 July, the Speaker of the National Assembly, Aubin Minaku, presided over a preliminary meeting of proposed Council members, which was criticized by many opposition parties, including the Union pour la nation congolaise, a signatory of the special arrangement of 27 April, which had set out the process for establishing the Council. On 20 July, the President of the Senate, Léon Kengo wa Dondo, met with most of the proposed Council delegates. That meeting was followed on 22 July by a meeting co-chaired by the presidents of both chambers of Parliament, at which the President of the Forces novatrices pour l'union et la solidarité and leader of the Rassemblement dissident wing, Joseph Olenghankoy, was appointed Chair of the Council. Adolphe Lumanu, of the Presidential majority, and Vital Kamerhe were nominated as vice-presidents of the oversight mechanism, with a third post allocated to the Front pour le respect de la Constitution opposition platform led by the Mouvement de libération du Congo. Vital Kamerhe declined to accept the position of vice-president, arguing that the process to designate members of the Council was not in line with relevant provisions of the 31 December 2016 agreement. On 24 July, the Secretary-General of the Episcopal Conference of the Democratic Republic of the Congo, Abbott Donatien Nshole, expressed disapproval with regard to the process leading to the appointment of the Chair and members of the Council, citing the lack of sufficient consensus and inclusiveness. On 25 July, the Front pour le respect de la Constitution dissident wing spokesperson, Lumuna Ndubu, accepted the vice-president position previously rejected by Eve Bazaiba, the coordinator of the Front and Secretary-General of the Mouvement de libération du Congo. Also on 25 July, Joseph Olenghankoy chaired the first meeting of the Council, which resulted in the establishment of two commissions responsible for developing, respectively, the rules and regulations and the draft budget of the mechanism.

7. On 17 July, President Kabila appointed the former Deputy Chief of Staff for Intelligence and Operations of the Forces armées de la République démocratique du Congo, Lieutenant-General Dieudonné Amuli, as Commissioner General of the national police, replacing General Charles Bisengimana. Further changes were made to the leadership of security services, in particular the national police, at the national and provincial levels.

8. The Rassemblement convened a conclave on 21 and 22 July. The opposition platform reiterated calls for the implementation of the confidence-building measures foreseen in the political agreement, in particular with regard to the release of political prisoners and restrictions to democratic space, measures to promote the independence of the Independent National Electoral Commission, the publication of the electoral calendar and the holding of the elections by December 2017. The Rassemblement announced a timeline for popular mobilization, including two general strikes, on 5 and 9 August, protests in main cities on 20 August and further actions after 1 October, should the Commission fail by September to convene voters to take part in polls in December 2017. In response, the Minister of Communication and the Media and government spokesperson stated that any attempts to overthrow the Government would be considered a crime against the nation and the State and dealt with as such, in line with the Constitution.

9. On 27 June, the Deputy Secretary-General of the presidential majority, Joseph Kokonyangi, stated that a constitutional referendum could prove an alternative to failed negotiations on the holding of elections. On 11 July, the Union des démocrates socialistes, a party affiliated with the presidential majority, advocated for electoral reforms aimed at modifying the voting system. On 15 July, the youth league of the Parti du peuple pour la reconstruction et la démocratie, the dominant party in the presidential majority, called for a state of emergency to be declared.

10. Political actors expressed varying views regarding a post-December 2017 transition. On 11 July, the Union pour la démocratie et le progrès social advocated for a six-month transition during the first half of 2018, without President Kabila in office, should elections not be organized in accordance with the political agreement. On 14 July, the President of the Liberté political party and former Minister of Industry, Germain Kambinga, advocated for an 18-month transition period, subject to a 3-month prorogation in case of force majeure, to be led by President Kabila, with a prime minister from the Union.

II. Key developments related to the implementation of the agreement

Electoral developments

11. The Independent National Electoral Commission announced that it had registered, as at 29 July, over 37 million eligible voters (90 per cent), including 48 per cent women, out of the 41 million estimated members of the electorate nationwide. The rate of women's participation in ongoing voter registration operations ranged from 43 to 48 per cent, with the exception of North Kivu and South Kivu Provinces, where the rate stood at 51 per cent, owing to special measures implemented by the Commission, in cooperation with local authorities and the United Nations Entity for Gender Equality and the Empowerment of Women. Regarding the five provinces of the Kasai region, which account for 16 per cent of the estimated electorate, according to the Commission, voter registration is well under way in the Kasai Oriental and Sankuru Provinces and most parts of Lomami Province. Voter registration operations are expected to begin in August in the Kasai Central and Kasai Provinces, and the Kamiji and Luilu territories of Lomami

Province, which account for 8.5 per cent of the estimated electorate. Given the requirement for registration centres to operate for 90 days and the time required for the consolidation of the registration data, the voter registration process throughout the country will most likely not be completed before November 2017.

12. On 18 July, the Independent National Electoral Commission announced its intention to organize gubernatorial elections on 26 August in 11 provinces, namely Bas-Uélé, Equateur, Haut-Katanga, Haut-Lomami, Kasai Central, Kwilu, Mongala, South Kivu, South Ubangi, Tshopo and Tshuapa. This announcement followed a string of no-confidence motions, starting in October 2016, mainly by provincial deputies from the presidential majority against governors hailing from their own ranks on the grounds of allegations of embezzlement of funds and mismanagement. The elections have yet to be held.

Restrictions on political space and violence as they relate to the implementation of the agreement in the electoral context

13. In its semi-annual note published on 26 July, the United Nations Joint Human Rights Office documented 430 violations of human rights and fundamental freedoms linked to restrictions of the democratic space in relation to the elections between January and June throughout the country. These were mainly violations of the right to liberty and security of the person, of the right to freedoms of opinion and expression (98 violations) and of the right to freedom of peaceful assembly (80 violations). The data confirms an increasing trend of violations of political rights and freedoms since 2015. This is compounded by an absence of meaningful and systematic investigations and accountability for violators of human rights. National police officers remain the main alleged perpetrators of these violations, accounting for 211 of the documented human rights violations. The Forces armées de la République démocratique du Congo were allegedly responsible for 90 violations, and were followed by the political and administrative authorities (44 violations), National Intelligence Agency agents (35 violations), armed groups (28 violations), judicial authorities (16 violations) and other agents of the State (6 violations).

Confidence-building measures

14. There is an urgent need for further progress towards the implementation of the confidence-building measures enshrined in the political agreement of 31 December 2016. According to opposition parties, a significant number of political prisoners remain in detention, while the Government claims that some of the high-profile personalities in detention are charged with criminal offences unrelated to their political activities. Furthermore, a general ban on protests continues to be applied in most of the main cities. On 10 July, in Kisangani, Tshopo Province, the mayor prohibited an awareness-raising campaign on voter registration, organized by the Mouvement de libération du Congo. On 19 July, the appeal in the case against the former governor of Katanga Province, Moïse Katumbi, who had been sentenced in 2016 to three years in prison on charges of forgery of documents for the acquisition of a property by the peace tribunal of Kamalondo, commenced at the high court in Lubumbashi, Haut-Katanga Province. Katumbi's lawyers noted several irregularities in the proceedings, all of which were dismissed by the court. There are concerns regarding efforts to affect the impartiality of the magistrates, especially with regard to the attempted assassination by unidentified gunmen of one of the judges the night before the court hearing. Furthermore, intimidation and harassment by state agents targeting the President of the Union nationale des fédéralistes du Congo and leader of the Rassemblement in Haut-Katanga, Gabriel Kyungu Wa Kumwanza, have increased since early July.

III. Good offices efforts for the implementation of the agreement and regional developments

15. The Government has intensified diplomatic efforts to broaden regional support. On 2 July, President Kabila travelled to Addis Ababa on the occasion of the twenty-ninth African Union summit, to seek the support of his African counterparts against the targeted sanctions that the European Union and the United States of America have imposed against some Congolese officials. At the request of the Government of the Democratic Republic of the Congo, the members of the Executive Council of the African Union denounced what they considered unjust unilateral sanctions against States and citizens of African Union member States. As regards the political agreement, the Assembly of Heads of State and Government of the African Union urged for the effective and consensual implementation of the 31 December agreement, with a view to the holding of elections in December 2017, and called for the urgent appointment of the chairperson and members of the National Council for Monitoring the Agreement and the Electoral Process.

16. The Episcopal Conference of the Democratic Republic of the Congo took a strong stance in support of the full implementation of the agreement of 31 December 2016 and the holding of elections in 2017, calling on the Congolese people to "take responsibility for their future", a move which was described as a call for an insurrection by the presidential majority and the Government. On 4 July, the Catholic Church launched an awareness-raising campaign on the role of peaceful protests in support of the political agreement.

17. On 7 July, in Paris, OIF, in collaboration with the International Contact Group on the Great Lakes Region, convened an extraordinary meeting to discuss the electoral stakes in the Democratic Republic of the Congo. The Vice Prime Minister and Minister for Foreign Affairs, Léonard She Okitundu, and the President of the Independent National Electoral Commission, Corneille Nangaa, attended the meeting.

18. On 13 July, during an extraordinary meeting held in Luanda, the Council of Ministers of the tripartite mechanism of Angola, the Democratic Republic of the Congo and South Africa unanimously denounced foreign interference in the internal affairs of the Democratic Republic of the Congo, calling for the withdrawal of targeted sanctions by non-African organizations and countries against officials of the Democratic Republic of the Congo.

19. In the final report of the 19th meeting of its Ministerial Committee of the Organ on Politics, Defence and Security Cooperation, held from 17 to 21 July, in the United Republic of Tanzania, the Southern African Development Community (SADC) asserted that instability in the Kasai region had an impact on the electoral timeline foreseen by the political agreement and denounced "extra-continental interference in the internal affairs of African Union member States", calling for the withdrawal of targeted sanctions against officials of the Democratic Republic of the Congo. SADC envisages the appointment of a special envoy for the Democratic Republic of the Congo and the establishment of a temporary office to better support the electoral process and facilitate liaison with MONUSCO, with the expectation that its presence in the Democratic Republic of the Congo would restore confidence among the population and ensure regional support for the electoral process.

20. My Special Representative and my Special Envoy to the Great Lakes Region carried out good offices efforts in support of the timely and comprehensive implementation of the agreement of 31 December 2016 and worked collaboratively with national actors and regional and international partners towards a solution to the political impasse.

21. My Special Representative continued to encourage key Congolese stakeholders to remain committed to the political process, notably the implementation of the political agreement. His efforts included meetings with (a) the Vice Prime Minister and Minister of the Interior and Security, Emmanuel Shadary Ramazani, on 17 July, who encouraged my Special Representative to engage separately with the presidential majority and the Rassemblement in a small contact group format to foster consensus around the political process; (b) the Secretary-General of the Episcopal Conference of the Democratic Republic of the Congo, Abbott Donatien Nshole, on 17 July, who asserted that it was the responsibility of the Government and the Independent National Electoral Commission to unblock the current impasse by, respectively, the implementation of confidence-building measures and the publication of an electoral calendar; (c) the President of the Rassemblement, Félix Tshisekedi, on 23 July, who described the appointment of Joseph Olenghankoy at the helm of the National Council for Monitoring the Agreement and the Electoral Process as an additional tactic by the ruling majority to delay elections, while deploring the position of regional actors such as SADC, the Economic Community of Central African States and the International Conference on the Great Lakes Region vis-à-vis the Democratic Republic of the Congo. Building on the aforementioned interactions, my Special Representative continued to encourage all stakeholders to engage in direct dialogue to find a consensual and inclusive way forward for the full and faithful implementation of the agreement of 31 December 2016, the establishment of an environment for the holding of peaceful and credible elections and the holding of elections no later than December 2017.

22. Efforts undertaken by my Special Envoy included consultations with regional and international partners on ways to promote and harmonize the engagement of the international community with the Congolese parties in support of the implementation of the political agreement. In this regard, on 17 July in Addis Ababa, my Special Envoy met with the Chairperson of the African Union Commission, Moussa Faki Mahamat, and the Commissioner for Political Affairs, Minata Samate Cesouma, to encourage continued close partnership between the United Nations and the African Union with a view to facilitating peaceful and credible elections. The Chairperson welcomed the joint efforts of the two organizations and urged the guarantors of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region to take additional measures, including joint visits to the Democratic Republic of the Congo in order to sustain engagement with all stakeholders in the political process. On 2 August, my Special Envoy met the President of the Congo, Denis Sassou Nguesso, to discuss, among other issues, regional efforts to support the implementation of the agreement of 31 December 2016.

IV. Observations

23. The political process in the Democratic Republic of the Congo is marked by a widening gap between opposition platforms and the ruling majority regarding the implementation of the political agreement in a context of continued shrinking of the democratic space. Many opposition actors, including those opposition parties that have until recently adopted a more collaborative approach (namely Mouvement de libération du Congo and Union pour la nation congolaise), might become less supportive of the agreement if divergences with the ruling majority persist. The perceived breaches of the political agreement, including the appointment of the Prime Minister, the signing of the amended special arrangement and the controversial establishment of the National Council for Monitoring the Agreement

and the Electoral Process, have undermined the confidence that the stakeholders had in the political agreement early in 2017 and have led to divisions within and among opposition platforms and the ruling majority. In addition, the trust that had developed among the signatories of the agreement has waned. In this light, strong political will and broad consensus are urgently needed for the full and faithful implementation of the political agreement of 31 December 2016 if a new phase of political confrontation is to be avoided, especially as political tensions heighten in the context of repeated calls by many opposition platforms, the Episcopal Conference of the Democratic Republic of the Congo and civil society for elections to be held by December 2017, in line with the provisions of the political agreement. Failure to create conditions conducive to the holding of timely, peaceful, transparent and credible elections enabling a peaceful transfer of power and concluding the transition period could deepen the political crisis in the Democratic Republic of the Congo, compounding an already serious security, human rights, humanitarian and economic situation.

24. Moving the implementation of the 31 December 2016 political agreement forward requires the parties to demonstrate more political will and that they engage more constructively. The immediate, full and tangible implementation of the confidence-building measures, the consensual operationalization of the National Council for Monitoring the Agreement and the Electoral Process and the publication of an electoral calendar in line with the provisions of the political agreement are elements that are essential to fostering the required level of confidence to overcome the deadlock in the political process. An open democratic space and full respect for political rights and freedoms for all, including the freedoms of opinion and expression and peaceful assembly, are essential to establishing the necessary conditions conducive to the holding of peaceful and credible elections. Politically motivated deprivation of liberty and other acts of intimidation against persons expressing opinions perceived as critical of the Government must stop, and those responsible for human rights violations must be held accountable. Ensuring full respect for human rights by state security forces, in particular in refraining from the excessive or disproportionate use of force in the maintenance of public order and including ensuring accountability for violations of such rights, as well as the exercise of the utmost restraint by all stakeholders across the political divide, are also essential for establishing the conditions conducive to the holding of elections. I exhort Congolese stakeholders to recommit themselves to the faithful implementation of the agreement of 31 December 2016, including the implementation of confidence-building measures to pave the way for a peaceful and credible transfer of power. In the light of the above, continued political engagement with all key political actors and civil society will be crucial. It will also be important that regional and international actors approach the situation in the Democratic Republic of the Congo with concerted actions and a common understanding of the complexity of the situation and possible solutions based on Congolese ownership. My Special Representative, working closely with my Special Envoy, will continue to pursue his good offices initiatives, in coordination with regional and international partners, with a view to helping Congolese stakeholders agree on reaching a consensual way forward for the political process.